

Underfunding Makeup Strategy Final Resolution 15-001

Steering Committee Final Motion 15-001, October 22, 2014

The LCR MSCP Steering Committee approves, by consensus, 1) the payment of the underfunding amount, using an applied inflation rate from each respective year the underfunding occurred; 2) applying the appropriate amount to make up underfunding in FY11 – FY14 in the Habitat Maintenance Fund (HMF) and the Remedial Measures Fund (RMF) and to prepay the RMF with the remaining amount; and direct the Program Manager to request written concurrence from the US Fish and Wildlife Service that the payment amount and schedule meets each funding party's commitment under the Program Documents, including Sections 6.4, 12, 15.10, of the Implementing Agreement.

(Moved by Jayne Harkins and seconded by Fred Worthley)

Final Resolution 15-001

Whereas, in a letter dated February 14, 2014, the Central Arizona Water Conservation District (CAWCD) informed the Multi-Species Conservation Program parties of an inadvertent error in the calculation of the inflation index (Funding and Management Agreement or FMA Section 8.1.1) for program years 6 through 9 (FY11 – FY14). Due to a change in the base year of one of the two indices used to calculate the inflation index, the inflation rate was understated and consequently too low. This resulted in an underpayment by the parties for those years.

Whereas, the Steering Committee was briefed on this issue at the February 20, 2014 Financial Work Group Meeting and the April 23, 2014 Steering Committee meeting and agreed to schedule additional conference calls to further discuss options for resolving the issue.

Whereas, at the May 28, 2014 Steering Committee/Work Group conference call, the Steering Committee agreed that, although the calculation error was inadvertent, the underfunding should be made up by the funding parties. It was also agreed that the underfunding payment should be applied to makeup underfunding in FY11 – FY14 in the Habitat Maintenance Fund (HMF) and the Remedial Measures Fund (RMF) and prepay the RMF. The issue undecided at that time was what inflation rate should be applied to the underfunding amount, that is should it be the inflation rate for each respective year the underfunding occurred or the inflation rate for the year in which the funding party makes up the underfunding.

Whereas, Fish and Wildlife (USFWS) staff communicated at the August 6, 2014 Steering Committee/Work Group conference call, that USFWS staff and legal counsel appreciated that the underfunding resulted from an inadvertent error and that otherwise the funding parties fully paid the amounts billed in each of the years of FY11 – FY14 in accordance with Section 8.4 of the FMA, that the Work Plan during those years was fully funded with no negative impact on Program activities, and that prepayment of the RMF will generate additional interest income

available for future use in the Program. Accordingly, USFWS considered it in the Program's best interest to pay the underfunding amounts using the applied inflation rate in each of the respective years the underfunding occurred.

Whereas, in a letter dated June 5, 2014, the CAWCD informed the Program Manager that Arizona made up its underfunding before July 1, 2014 using a 2014 inflation rate. Since Arizona owes \$570,078.00 in underfunding, they will receive a funding credit of \$20,219.36 in 2014 dollars.

Whereas, in a letter dated July 17, 2014, the Colorado River Commission of Nevada informed the Program Manager that Nevada made up its underfunding payment as of June 27, 2014 using a 2014 inflation rate. Since Nevada owes \$1,140,156.00 in underfunding, they will receive a funding credit of \$40,438.72 in 2014 dollars.

Whereas, the Bureau of Reclamation will makeup the federal share of the underfunding of \$3,800,520.00 using existing federal funding credits in FY14 (FMA Section 8.1.2) .

Whereas, the California parties have agreed to makeup the California underfunding of \$2,090,286.00 in FY15 in conjunction with their FY15 contribution; now, therefore, be it

Resolved that the Steering Committee approve, by consensus, the makeup of \$7,601,040.00 in underfunding for program years FY11 – FY14 and that the non-federal amount of \$3,800,520.00 should be used to makeup underfunding in the HMF, RMF, and to prepay the RMF.